

HONORABLE RICARDO S. MARTINEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

vs.

INTERNAL REVENUE SERVICE,

Defendant.

NO. 2:15-cv-01605 RSM

THIRD CONSENT MOTION AND ORDER
REGARDING CASE SCHEDULE

The above-captioned action is for declaratory and injunctive relief under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, and the Administrative Procedure Act, 5 U.S.C. § 701 et seq. The parties jointly request that the action remain open and that the Court approve the parties’ agreed upon, modified schedule set forth in paragraph 1, below. In support of this request, the parties state the following:

1. On August 13, 2021, the Court issued a modified case management order in which the Court adopted the parties’ proposed revised schedule and case management order. Under that schedule, the IRS was required to provide Microsoft with a draft revised *Vaughn* index by September 17, 2021, and to file a motion for summary judgment by October 29, 2021.

THIRD CONSENT MOTION TO EXTEND TIME AND ORDER
REGARDING CASE SCHEDULE
(Case Nos. 2:15-cv-1605)

U.S. Department of Justice, Tax Division
Ben Franklin Station , P.O. Box 227
Washington, D.C. 20044
202-616-8994 (Phone)
202-524-6866 (Fax)

The IRS, however, underestimated the amount of time and resources needed to complete a draft revised *Vaughn* index in this matter. The parties also plan to thereafter engage in good faith negotiations to attempt to narrow the issues that might need to be resolved through summary judgment proceedings.¹ The IRS accordingly requests, and Microsoft consents, to extend the remaining deadlines for transmitting a draft revised *Vaughn* index to Microsoft and for filing a motion for summary judgment. The IRS therefore requests that the Court adopt the following revised schedule for the above-captioned case:

SCHEDULE	
Event	Date
The IRS to provide draft revised <i>Vaughn</i> indices:	October 15, 2021
The IRS to file its motion for summary judgment:	December 3, 2021

2. Recognizing that the parties continue to engage in good faith negotiations, the parties agree that evidence of the IRS's efforts to address Microsoft's concerns, including any revisions to previously exchanged declarations or exemption claims, is not admissible to prove that the IRS's search was unreasonable or that the IRS's exemption claims were improper.

3. The parties jointly request that this action remain open and that the Court enter an order adopting the case schedule proposed in paragraph 1.

Respectfully submitted this 17th day of September, 2021.

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¹ The IRS provided Microsoft with a draft revised *Vaughn* index in 2:15-cv-00369 and 2:15-cv-00850 on August 27, 2021, and the parties are in the process of identifying and attempting to address issues in the index.

BAKER & McKENZIE LLP

By: s/ Daniel A. Rosen

Daniel A. Rosen, NYBA #2790442

Pro Hac Vice

452 Fifth Avenue

New York, NY 10018

Tel: (212) 626-4272

Fax: (212) 310-1600

Email: daniel.rosen@bakermckenzie.com

Attorney for Plaintiff Microsoft Corporation

U.S. DEPARTMENT OF JUSTICE

By: s/ Stephen S. Ho

Stephen S. Ho

Trial Attorney, Tax Division

U.S. Department of Justice

Post Office Box 227

Washington, DC 20044

Tel: (202) 616-8994

Fax: (202) 514-6866

Email: stephen.s.ho@usdoj.gov

Attorney for Defendant Internal Revenue Service

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing JOINT MOTION via the Court's electronic case filing system on September 17, 2021.

/s Stephen S. Ho

STEPHEN S. HO

ORDER

It is SO ORDERED this 17th day of September, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

Presented by:

BAKER & MCKENZIE LLP

By: s/ Daniel A. Rosen
Daniel A. Rosen, NYBA #2790442
Pro Hac Vice
452 Fifth Avenue
New York, NY 10018
Tel: (212) 626-4272
Fax: (212) 310-1600
Email: daniel.rosen@bakermckenzie.com

Attorney for Plaintiff Microsoft Corporation

U.S. DEPARTMENT OF JUSTICE

By: s/ Stephen S. Ho
Stephen S. Ho
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 227
Washington, DC 20044
Tel: (202) 616-8994
Fax: (202) 514-6866
Email: stephen.s.ho@usdoj.gov

Attorney for Defendant Internal Revenue Service